

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

UNITED STATES OF AMERICA, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 1:23cv0108 (LMB/JFA)
)	
GOOGLE LLC,)	
)	
Defendant.)	
)	

ORDER

This matter is before the court on plaintiffs’ motion to seal certain portions of their sur-reply to defendant’s motion to dismiss the United States’ damages claim as moot and to strike the jury demand. (Docket no. 738). In the memorandum in support of the motion to seal, plaintiffs state that they redacted portions of the sur-reply and filed under seal exhibits B and C based on defendant or non-parties designating that information as confidential. Consistent with its earlier determination not to seek continued sealing of the but-for revenue share and damages numbers (Docket no. 743), defendant has not filed a memorandum in support of maintaining under seal any of the redacted material. Several non-parties have filed responses in support of maintaining certain information in exhibits B and C under seal. (*See* Docket nos. 770, 814, 837, 840).

Initially, the court finds that the materials filed relating to this motion to dismiss would require an analysis of the public’s access under the First Amendment standard requiring that access may be restricted only if it is necessitated by a compelling government interest and the denial of access is narrowly tailored to serve that interest. *See Va. Dep’t of State Police v. Wash. Post*, 386 F.3d 567, 575 (4th Cir. 2004); *Doe v. Pub. Citizen*, 749 F.3d 246, 266 (4th Cir. 2014).

Having reviewed the submissions of the parties and taking into account the Fourth Circuit's directives, the court finds that none of the information contained in this filing should remain under seal. As to the redactions in the sur-reply, defendant has agreed that similar redacted information does not need to remain under seal and the court has required that type of information to be unsealed previously. As to exhibits B and C, non-parties have argued that the information on page 10 of the Mahoney declaration (Docket no. 740-1) and page 6 of the Simcoe report (Docket no. 740-2) contain sensitive, competitive, confidential, financial information. *See* Docket nos. 770, 814, 837, 840.¹ A review of that information reveals that the names of certain non-parties are mentioned in the context of companies in which data was obtained and then used collectively. No specific financial information for any of the non-parties is disclosed in exhibits B and C and there is no compelling governmental interest in maintaining that information under seal. For these reasons, it is hereby

ORDERED that the motion to seal is denied and within seven days plaintiffs shall file an unredacted version of their sur-reply to defendant's motion to dismiss the United States' damages claim as moot and to strike the jury demand along with exhibits B and C in the public record.

Entered this 3rd day of July, 2024.

Alexandria, Virginia


/s/
John F. Anderson
United States Magistrate Judge
 John F. Anderson
 United States Magistrate Judge

¹ Several of these pleadings refer to this motion to seal but focus on the numerous other motions to seal relating to the motion for summary judgment and motions in *limine*.